



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 30, 2009

Mr. Michael W. Dixon
Haley & Olson
510 North Valley Mills Drive, Suite 600
Waco, Texas 76710

OR2009-18428

Dear Mr. Dixon:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 365707.

As legal counsel for the City of Whitney (the "city") in a specified lawsuit, your firm received a request for six categories of information pertaining to that lawsuit. You claim that the requested information is excepted from disclosure under sections 552.103, 552.107, and 552.111 of the Government Code.¹ We have considered your arguments and reviewed the submitted information.²

Initially, we will consider whether the submission of the request for information to your firm triggers the Act. Section 552.221(a) of the Government Code states that "[a]n officer for public information of a governmental body shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. Gov't Code § 552.221(a). Further, section 552.301 of the Government Code provides that a governmental body's duty to request a decision from this office as to whether information may be properly withheld under the Act does not arise until the governmental body receives

¹Although you raise the attorney-client privilege under section 552.111 of the Government Code, we note section 552.107 of the Government Code is the proper exception to raise for your attorney-client privilege claim in this instance.

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

a written request for the information. *Id.* § 552.301. The information request in this instance was made to your law firm and not to the city. You state, in your brief to our office, that you “are not the City Attorney or the City’s General Counsel[.]” You further inform us that you were assigned to represent the city in a specified lawsuit by the Texas Municipal League. Thus, although your firm is acting as the city’s agent with respect to the specified lawsuit, we have no indication that your firm is the city’s agent for the purposes of receiving public information requests under the Act. *See* Open Records Decision Nos. 617 (1993) (Director and Librarian of Texas State Library and Archives Commission (“TSLAC”) was not proper agent for open records request for state agency records archived by TSLAC because state agency still had legal custody of records at issue and TSLAC was not in position to determine proper arguments for records it held as archivist); 576 (1990) (comptroller of public accounts was governmental body’s agent for receiving public information requests because it had agreed to serve as agent for records of governmental body that comptroller maintained on governmental body’s behalf). Accordingly, the instant request to your firm does not trigger the Act and your firm need not respond to the request.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 365707

Enc. Submitted documents

c: Requestor
(w/o enclosures)